



# Information Memorandum

Oregon Department of Human Services

Originating Cluster:

Seniors and People with Disabilities

Mary Lee Fay, Administrator  
Office of Home & Community

Authorized by: Supports

*Signature*

IM Number: SPD-IM-04-007

Date: January 22, 2004

**Subject:** Comprehensive Rule Clarification re Abuse

**Applies to (check all that apply):**

- |  |  |
|--|--|
| <input type="checkbox"/> All DHS employees   | <input checked="" type="checkbox"/> County DD Program Managers           |
| <input type="checkbox"/> Area Agencies on Aging  | <input checked="" type="checkbox"/> County Mental Health Directors       |
| <input type="checkbox"/> Children Adults and Families  | <input type="checkbox"/> Health Services                                 |
| <input type="checkbox"/> Community Human Services  | <input checked="" type="checkbox"/> Seniors and People with Disabilities |
| <input checked="" type="checkbox"/> Other (please specify): <u>County Developmental Disability Protective Services</u><br><u>Investigators</u> |  |

**Message:** There are two errors in the comprehensive rule relating to abuse. The first is found at OAR 411-325-0160(5)(a). It states that agencies must report abuse to the CDDP **and** law enforcement. It should say that agencies must report abuse to the CDDP **and/or** law enforcement. The second, is at OAR 411-325-0190(2). Agencies are told to provide a copy of unusual incident reports to services coordinators and guardians. The definition of unusual incident includes "any incident requiring abuse investigation". However, the abuse statute protects much of the information contained in an incident report. We have advised providers not to provide these incident reports to guardians and not to call law enforcement for every allegation. Please see the attached memo for the full text of our advisory to providers.

Our memo to providers also suggests that they obtain new mandatory reporting cards and letters as well as review the changes in the definitions of abuse, particularly those for verbal mistreatment and restraints, with their staff.

*If you have any questions about this information, contact:*

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DATE: January 16, 2004

TO: 24-Hour Residential Services Providers

FROM: Eva Kutas, Director  
Office of Investigations and Training  
Health Services, Dept. of Human Services

SUBJECT: Comprehensive Rule Information and Clarification Re: Abuse

As you know the Comprehensive 24-Hour Residential Services For Children and Adults with Developmental Disabilities administrative rule (OAR 411-325-0010 to 0480) went into effect on January 1<sup>st</sup>, 2004. This memo is to advise you of two important issues which we plan to clarify in a future rule revision.

First, OAR 411-325-0160 (5)(a) reads “agencies providing services to adults must report abuse to the CDDP **and** law enforcement in the county where the adult resides.” This should read, “must report to the CDDP **and/or** law enforcement.” The existing language is in error; you should not be contacting law enforcement for every allegation of abuse. Neither the standard nor expectation has changed. You should call law enforcement when “there is reason to believe a crime has been committed”. In addition, you should notify the CDDP for all allegations.

Second, OAR 411-325-0190 (2) added a requirement that copies of all unusual incident reports be sent to guardians as well as services coordinators. The definition of unusual incident includes “any incident requiring abuse investigation.” This is also an error. Please do not send an original copy of an incident report documenting abuse to the guardian. Much of the information contained in an incident report is protected under the abuse statute, e.g. all names of witnesses and their identifying information. Some things may also need to be kept confidential under HIPAA if the guardian is accused of the abuse. Following current practice, notifying a guardian of the nature of the abuse allegation and ultimately its outcome, should be sufficient.

We have revised the mandatory reporting cards and employee letters to reflect the changes in the administrative rules and the abuse statute (adding neglect). These are currently available from our office (please contact Gayla Shoff at 503-947-1014 or [gayla.shoff@state.or.us](mailto:gayla.shoff@state.or.us) ). Given the significant change to the definition of restraints as abuse (must be inappropriate, unauthorized and result in injury) as well as the change in the verbal mistreatment definition (verbally abusive behavior that threatens significant physical or emotional harm), it seems prudent to provide updated information to all staff. It is also advisable to review your agency's abuse policies to make sure they conform to the new definitions.

Please contact your CDDP protective services staff or our office if you have any questions about this memo.